

Exhibit A

C O N F I D E N T I A L

UNITED STATES DISTRICT COURT

DISTRICT OF VERMONT

Case No. 5:17-cv-194

MISTY BLANCHETTE PORTER, MD,)

)

Plaintiff)

)

vs.)

)

DARTMOUTH-HITCHCOCK MEDICAL CENTER,)

DARTMOUTH-HITCHCOCK CLINIC,)

MARY HITCHCOCK MEMORIAL HOSPITAL,)

and DARTMOUTH-HITCHCOCK HEALTH,)

)

Defendants)

D E P O S I T I O N

of

EDWARD J. MERRENS, MD

Taken at the law offices of Vitt & Associates,
PLC, 8 Beaver Meadow Road, Norwich, Vermont on
Tuesday, July 30, 2019 commencing at 10:00 a.m. before
Sunnie Donath, RPR

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APPEARANCES:

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On behalf of the Plaintiff

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On behalf of the Plaintiff

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On behalf of the Defendants

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1 delivery, in leadership, in a lot of issues around how
2 health care systems are organized, and I was selected
3 to be a cohort sponsored by Dartmouth-Hitchcock to go
4 through this masters, masters program, and it was part
5 of a leadership development exercise and advancing my
6 career.

7 **Q.** Has that study been helpful for your career since
8 then?

9 **A.** Absolutely.

10 **Q.** In what ways?

11 **A.** I think the program allowed me to work with about
12 50 other people over a year-and-a-half period of time
13 who had about 20 to 25 years of experience in health
14 care delivery from around the United States. We looked
15 at wide ranges of issues of health care, economics,
16 hospital structure, leadership, delivery of care,
17 insurance, health care finance, which is very much
18 consistent with what my role is within the organization
19 and our system now.

20 **Q.** Why was the REI division closed?

21 **A.** The REI division was closed for a variety of
22 reasons. There were issues. Finally, because it
23 lacked the staffing to be able to provide the care that
24 was necessary for a program that requires sometimes
25 24/7 management of cycles and harvest and delivery of

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1 care. There were challenges around recruitment and
2 turnover of nurses in that area, and I think there was
3 a, some fundamental discord amongst the, the group
4 around how the care was provided, but, ultimately, it
5 came down to the simple fact that we didn't have the
6 staffing in order to provide the safe and effective
7 care that we felt the group could.

8 **Q.** What was your role in the decision to close the
9 REI division?

10 **A.** Ultimately, it was my decision. The chairs all
11 report to me in our system. We review issues at
12 departmental level. We review issues and problems and
13 challenges, and, in discussions with Daniel Herrick,
14 the VP for OB/GYN, and Leslie DeMars in her chair role,
15 it became clear that there were challenges and concerns
16 and, although ultimately the chair would effect the
17 decision, it was really a decision that was brought to
18 me, and I fundamentally made the final decision with
19 our counsel about that we close the REI program.

20 **Q.** Why was Dr. Misty Porter terminated?

21 **A.** Because we closed the program, the REI program.
22 So her termination was, occurred at the same time we
23 terminated the other physician providers in the
24 program. We ended the program in which she worked.

25 **Q.** And what was your role in the decision to

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1 terminate Dr. Porter?

2 **A.** The role was that we terminated the program. We
3 ended the program, and, in ending the program, we made
4 the decision also that the people that provided that
5 care that was no longer going to be needed would also
6 be terminated. So we made the decision to terminate
7 the physicians as the program ceased operation. Misty
8 was one of the three physicians that provided care in
9 this program.

10 **Q.** Ultimately, it was your decision to terminate
11 Dr. Porter?

12 **A.** My decision was to -- ultimately, I mean,
13 ultimately, the program was, we ended the program, and
14 in order -- their termination was part of the closure
15 of the program. Everything, I am ultimately
16 responsible for everything that happens from a clinical
17 aspect at Dartmouth-Hitchcock. I oversee clinical
18 operations for the system. So was it ultimately my
19 decision? Yes.

20 **Q.** Looking at the, the decision to close the REI
21 division, I'd like to go over the roles of various
22 players briefly. We'll get into more detail, but for
23 now.

24 **A.** Sure.

25 **Q.** So, looking at the decision to close the REI

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1 Dr. Seifer was the division director, correct?

2 **A.** Correct.

3 **Q.** And in that role he had leadership responsibility
4 for the division?

5 **A.** Correct.

6 **Q.** Would it be difficult to maintain a functional
7 division with somebody in leadership who had these
8 issues as described in these documents?

9 ATTORNEY SCHROEDER: Objection, calls for
10 speculation. You can answer.

11 THE WITNESS: I think these, these
12 perspectives raise serious concerns about someone's
13 capability to serve in a leadership role.

14 BY ATTORNEY KRAMER:

15 **Q.** Does it raise concerns about functionality of the
16 division?

17 **A.** Yes.

18 ATTORNEY VITT: Take a quick break?

19 (A recess was taken from 2:34 p.m. to 2:43 p.m.)

20 BY ATTORNEY KRAMER:

21 **Q.** Okay. When did you start getting involved in
22 discussions about potentially closing the REI division?

23 **A.** I think we started talking probably April of 2017,
24 April or May, something like that, April.

25 **Q.** The closure, the closure was in May.

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1 **A.** Then we --

2 **Q.** Well, the closure was announced in May.

3 **A.** Announced in May? It was probably April,
4 beginning of -- I'd have to go back through the records
5 of kind of when we first started meeting and talking
6 about it. So sometime in early April.

7 **Q.** And who brought this up?

8 **A.** I think we began discussing it with Daniel, Daniel
9 and Heather and Leslie and I. I mean, they'd gone
10 through this Value Institute work. Daniel's done a lot
11 around -- he's a Black Belt, so he's done a lot of
12 quality improvement work. So I think he was saying,
13 We've got a problem. We've lost a lot of people. I
14 think we lost our nurse was the -- I think the staffing
15 issues were just the last wheel to come off the cart.
16 That was a big -- I mean, that was fundamentally the
17 key issue is, like, we just didn't have any nurses
18 anymore.

19 It's not all of the issues that are outlined here
20 around dysfunction, incompetence, and technique. It's
21 like we don't have a nurse. So that prompted us to
22 really discuss kind of some of the bigger issues and to
23 get down to the understanding and the recommendations
24 to bring some of this to light, and I think Daniel was
25 essential in bringing some of this to light.